

Annual Report 1993



The Law Society
of Upper Canada

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Table of Contents

Introduction	2
Treasurer's Message	3
Membership Statistics	5
Committee Reports	7
Financial Statements	27
Law Society Medal Recipients	42
Convocation Membership	44
Senior Management	46

Introduction

The Law Society of Upper Canada is the governing body of Ontario's lawyers and is responsible for their education, licensing, supervision and discipline. The Society's affairs are conducted by forty-four governors known as Benchers, forty of whom are elected by members of the legal profession every four years, four of whom are members of the lay public and are appointed by the Lieutenant Governor-in-Council. In addition, there are also several *ex-officio* Benchers.

Treasurer's Message

It was my great privilege to preside in Convocation as Treasurer during the Law Society's year ended June 30, 1993. Over that period, the Benchers established a busy agenda and worked toward its completion.

The year began with a Strategic Planning Conference that provided an opportunity for the Benchers to spend two days focusing on the changes in professional values and standards that have occurred in the legal profession over the last 25 years. The Conference led to specific recommendations that will assist the Law Society in developing and defining the concept of professionalism in the current age.



Allan Rock

I took every opportunity during the year to visit County and District Law Associations throughout Ontario. Those visits enabled me to speak with lawyers where they practice and to learn directly of their perspectives and concerns. I am indebted to my colleagues throughout Ontario for the kindness and hospitality that they showed me on those occasions. I was both reassured and profoundly impressed by the high levels of professional

commitment that I saw among lawyers everywhere that I travelled in Ontario.

Among the issues that engaged the Benchers' attention during the year, none was more significant than our continuing efforts to secure proper levels of funding for the Legal Aid Plan. The measures taken by Convocation from time to time, acting on the advice of the Legal Aid Committee, resulted in the Plan being fully financed for all of its operations during the fiscal year.

The Law Society continued its work to ensure equity of access to the profession and to practice. Our Equity Committee developed and introduced measures intended to ensure that the legal profession will reflect the diversity of Ontario's population.

In the area of professional discipline, new management procedures were devised and put in place to simplify procedures and enhance their fairness. The changes were generally well received, and matters of process continue to be

reviewed so that the discipline system can be further improved.

The cost of lawyers' professional insurance remained a matter of concern during the year. An increase in both the number and value of claims in recent years has made it necessary for premiums to be increased at a time when lawyers' expenses generally are a growing burden. The Insurance Committee will continue to monitor developments and to administer the insurance program as effectively as possible in these challenging times.

During the past year, the Society began a comprehensive review of the Rules of Professional Conduct. The project, which will not be completed until at least 1994, will result in a methodical re-examination of the Rules of Professional Conduct, the first to be conducted in many years.

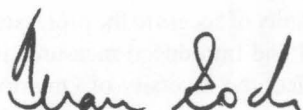
I would like to take the opportunity to offer my warmest congratulations to ex-officio benchers James M. Spence who was appointed to the Ontario Court (General Division) on February 1, 1993.

It is with great regret that I note the passing away of ex-officio benchers Gordon F. Henderson on August 17, 1993. Gordon served the Society and the profession with boundless energy, commitment and dedication and will be deeply missed by all of us.

I completed my term as Treasurer on June 25, 1993, and on that day, the Benchers elected Paul Lamek, Q.C. to serve in the office for the coming term. I join with Paul's colleagues on the Bench and in the profession in congratulating him and wishing him well during his term of office. I have no doubt that he will continue to serve the profession with the distinction that has marked his years as a Benchers, during which he chaired the Law Society's most senior committees.

As I leave office as Treasurer, I wish to express my admiration for and appreciation to the Benchers for their dedication and commitment as they have addressed the many challenging issues that face the legal profession in Ontario. Whatever has been achieved during my term would not have been possible without their efforts. The profession should know that it is well served by these outstanding women and men, whose hard work is often contributed at significant personal and professional cost.

I wish also to record my deep appreciation and enormous respect for the Law Society staff. The quality and professionalism of their work is everywhere evident, and I know that I speak on behalf of all Benchers in acknowledging their contribution and expressing thanks for their work.

A handwritten signature in dark ink, appearing to read "Ivan Loch". The signature is fluid and cursive, with the first name "Ivan" and last name "Loch" clearly distinguishable.

- done

Membership Statistics

Members in good standing (*as at June 30, 1993*)

Members in private practice

Sole practitioners	5,440	
Partners	6,348	
Employees	2,353	
Associates	2,004	16,145

Members otherwise employed in Ontario:

Education	231	
Government	2,329	
Other employment	3,096	5,656

Members not employed in Ontario:

Retired	2,176	
Residing out of province	1,448	3,624

Total Members in Good Standing	<u>25,425</u>
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Other membership data

Honourary members	17
Life members	462
Members excused fees	626

Admissions and total membership (10 year history)

Year	Admissions				Total	Total
	Male	%	Female	%	Admissions	Members
1984	687	67.0	338	33.0	1,025	16,991
1985	665	63.3	385	36.7	1,050	17,756
1986	691	62.2	420	37.8	1,111	18,588
1987	672	59.0	467	41.0	1,139	19,442
1988	672	57.3	501	42.7	1,173	20,417
1989	691	58.4	492	41.6	1,183	21,477
1990	735	60.1	487	39.9	1,222	22,501
1991	701	58.6	495	41.4	1,196	23,469
1992	703	58.1	506	41.9	1,209	24,432
1993	646	55.0	530	45.0	1,176	25,425

Memberships, 1993 and 1992

	1993		1992	
	Number	%	Number	%
Male	18,982	75.0	18,475	75.6
Female	6,443	25.0	5,957	24.4
Total	25,425	100.0	24,432	100.0

Membership, by age range and sex, 1993

Age Range	1993		Per cent	
	Male	Female	Male	Female
Under 30	992	864	53	47
30-39	6,020	3,487	63	37
40-49	6,526	1,710	79	21
50-65	3,901	330	92	8
Over 65	1,543	52	97	3
Total	18,982	6,443	75%	25%

Membership geographical distribution, 1993

	Fee paying		Life		Excused Fee		Total	
	Male	Female	Male	Female	Male	Female	Male	Female
Toronto	8,749	3,455	197	10	231	16	9,177	3,481
Other Ont.	8,235	2,510	234	8	303	19	8,772	2,537
Other Prov.	654	266	10	0	41	3	705	269
Outside Can.	314	154	3	0	11	2	328	156
Total	17,952	6,385	444	18	586	40	18,982	6,443

Committee Reports

Admissions

Chair: Robert J. Carter, Q.C.

Applications to Transfer

Thirty-nine (39) applications were received in 1993 from members in other Canadian provinces requesting a transfer to practice in Ontario. The particulars are as follows:

Alberta	9
British Columbia	3
Manitoba	8
Quebec	12
New Brunswick	2
Nova Scotia	4
Prince Edward Island	1

Calls and Admissions

Under Section 4 of the Regulation, which governs the transfer to practice in Ontario of members from other Canadian provinces, 14 applicants were called to the Bar and admitted as solicitors.

Under Section 5, which governs the admission of full-time deans and teachers of Ontario law schools, four applicants were called to the Bar and admitted as solicitors.

Under Section 6, which governs the granting of Occasional Court Appearances, 44 applicants were called to the Bar and admitted as solicitors.

Clinic Funding

Chair: Philip Epstein, Q.C.

Independent Community Legal Clinics

Ontario's 71 independent community legal clinics provided legal services, sum-

mary advice and referrals to 271,159 individuals in 1993. This represents a two per cent increase in caseload over the previous year.

A total of \$30.3 million was allocated for clinic funding in 1993, an increase of three per cent over 1992.

The Clinic Resource Office (CRO) was very active in providing research and resource materials for clinic practitioners in the areas of social assistance and landlord and tenant matters. CRO staff prepared standard memoranda on poverty law issues and published an information bulletin to keep clinic practitioners up-to-date on recent developments.

The Clinic Funding Committee funded poverty law study groups and regional clinic associations that organize training programs for legal staff on a regular basis. Funding was also allocated for a provincial housing committee which was mandated to develop a consistent approach on housing policy for clinics province-wide.

The Clinic Funding Committee participated in ongoing discussions with Ministry of the Attorney General staff related to the development of family and immigration law pilot projects.

Public Legal Education

Funds were allocated to clinics for the production of self-help kits, brochures and other publications. Special projects undertaken in 1993 include a pamphlet series on Workers' Compensation matters, a booklet for youth entitled "Know Your Rights," and a manual on how to apply for criminal injuries compensation.

Community Legal Clinic Statistics 1992

Files Open	36,974
Summary advice	166,066
Referrals to:	
private bar	13,767
OLAP	17,501
social agencies	4,582
clinics	11,408
other	20,861
	<u>68,119</u>
	271,159
Public legal education sessions	1,989
Legal education publications	451
Briefs/submissions to public bodies	199

Communications

Chair: Denise E. Bellamy

The Communications Committee introduced a number of public and member initiatives designed to respond to the findings of a 1992 province-wide survey of the Ontario public and lawyers.

The survey of lawyers identified a need for regular and timely communication with respect to Law Society discipline decisions and policy initiatives affecting the profession and the practice of law. Several new publications were launched as part of a monthly newsletter program which provides the profession with regular bulletins on insurance, practice management, legal aid, professional conduct, ethics and discipline matters as well as a précis of policy decisions approved by Convocation. These publications are also distributed to MPPs and the media as part of an ongoing effort to educate decision and opinion-makers about the issues surrounding self-governance.

Among members of the public, the survey discovered that only one-third of Ontarians were confident in their ability, as individual consumers, to retain appropriate legal services. As well, the majority of the public were unaware of either the Law Society's Lawyer Referral Service or its mandate to provide access to legal services. An intensive print advertising campaign appearing in metropolitan and regional daily newspapers was launched in the spring of 1993 to raise awareness of the service and promote its use particularly in those areas of greatest consumer need—real estate, wills, family and business law. The cost of the campaign is covered entirely by a \$50 membership fee paid by the approximately 3,500 lawyers participating on Lawyer Referral Service panels.

Finally, to assist in shaping and managing consumer expectations of lawyers and legal services the Communications Committee has initiated the development of a series of publications, to be distributed exclusively through lawyers offices, that are intended to assist clients to establish and maintain a workable, effective and efficient relationship with a lawyer. The publications, written entirely from a consumer perspective, address a number of issues with emphasis on the following: the client's role in the solicitor/client relationship, how to work with a lawyer, lawyers' fees, legal processes, legitimate client expectations and ways to ensure they are fulfilled.

Public Program Statistics

Demand for the Society's popular Dial-a-Law telephone legal information service continues to grow, with calls averaging 1,000 per day. Tapes on family law, legal aid, small claims and wills account for over 80 per cent of current program usage.

The Lawyer Referral Service receives over 700 calls per day for general legal information and referrals to lawyers. Recent statistics show that requests for referrals predominate in the areas of family, employment/labour, immigration and criminal law.

County & District Liaison

Chair: Rino C. Bragagnolo, Q.C.

The Committee ensures that the County and District Law Presidents' Association through its Executive, is kept aware of the issues under consideration by the Society. The Committee also functions as a vehicle for the County & District Law Presidents' Association to bring its concerns to the attention of the benchers. In this way each group has the benefit of regular, informal exchanges with the other on matters of mutual concern as well as the opportunity to seek or provide input on a variety of topics. A number of issues were considered by the committee in fiscal 1993, including professional standards' checklists, the revisions to Forms 4 and 5, legal aid and regional continuing legal education.

Discipline

Chair: Harvey T. Strosberg, Q.C.

Statistics

During the fiscal year, 370 complaints were issued by the Society alleging professional misconduct or conduct unbecoming a barrister and solicitor—an increase of 51 per cent over the previous year.

Forty-six (46) lawyers were reprimanded in committee. In addition, 28 lawyers were invited to attend before the Discipline Committee to receive its advice concerning minor breaches of the Rules of Professional Conduct. Convocation dealt with 41 matters which resulted in the following dispositions:

Reprimands in Convocation	13
Suspensions	16
Permissions to resign	4
Disbarments	8

Discipline Case Management Procedures

A series of discipline case management procedures have been implemented which are designed to increase efficiency and expedite the discipline process. Time limitations have been imposed on a number of procedures. Depending on their complexity and severity, discipline matters are to be assigned to one of the following: fast track matters to be heard within 90 days of issuance for complaints of a generally routine nature; standard track matters to be heard within four months; and, complex track matters which may only be so designated by an order from a procedural management bencher and must be heard within six months.

Discipline Policies

A number of policies concerning discipline were adopted in 1993, namely:

- Reprimands in committee are to be administered in public.

- The chair and vice-chairs of the Discipline Committee, who authorize the issuance of complaints, have ceased to participate in Discipline Convocation. This measure is designed to reinforce the separation between the adjudicative and prosecutorial functions.
- Law Society counsel are instructed to seek costs from members found guilty of professional misconduct. Costs are to include counsel and professional fees as well as any disbursements such as expert witness fees. Costs will be calculated according to an updated tariff.

The Society has also taken measures to increase the use of *pro bono* services by members of the profession in discipline and complaints matters. Lay benchers serve as Complaints Commissioners on Complaints Review and a roster of duty counsel is being compiled to assist them. Similarly, a roster of duty counsel will be developed to assist solicitors appearing before Convocation who have not obtained legal representation.

Audit & Investigation

The Department of Audit & Investigation completed 241 forensic audits and investigations pertaining to serious breaches of the Rules of Professional Conduct and trust accounting deficiencies during the year.

The Department's Examiners were also engaged in 543 examinations of lawyers' trust accounting practices and other less serious breaches of the Rules of Professional Conduct. A significant number of examinations pertained to members practising under suspension, members failing to file a Form 3 accountant's report and various complaints regarding trust accounting matters. These examinations resulted in 67 matters being referred to Discipline.

Complaints

The Law Society has continued to experience a significant increase in the incidence of complaints. Approximately 5,800 files were opened in 1992 compared to 5,250 in 1991. Current data would suggest that the volume is beginning to level off. Approximately 2,500 files have been opened as of mid-1993.

Historically, about two-thirds of the complaints received have been divided equally between real estate and civil litigation matters. More recently, the trend has been toward more complaints in the area of matrimonial law and fewer complaints in real estate.

Complaints from parties alleging a lawyer's failure to honour practice-related financial obligations and from adverse parties in ongoing litigation have increased sharply.

The reform of the complaint handling process has continued as the Society attempts to develop more effective ways of resolving the vast majority of complaints that do not warrant disciplinary action. An increasing number of matters are dealt with over the telephone. More complex investigations continue to involve an exchange of correspondence, telephone communications and, on occasion, meetings with relevant parties.

Equity in Legal Education and Practice

Chair: Stephen T. Goudge, Q.C.

Since August of 1992, the Equity in Legal Education and Practice Committee has undertaken the following initiatives:

- A survey was completed of black law students and black lawyers called to the bar since 1987 which was designed to gauge perceptions of discrimination while at university, during articles and in practice.
- Tracking mechanisms have been established to monitor the incidence of minority and aboriginal students who have experienced difficulty in obtaining articling positions. Special efforts, including representations to law firm partners, have been made to assist them. This monitoring and assistance program will continue. The committee has found that minority and aboriginal students are disproportionately represented among those students who have had difficulty securing articles and this trend appears to be increasing as more minority and aboriginal students enter the bar admission course.
- A program to provide an alternative to university law school courses for foreign-trained lawyers seeking qualification in Ontario is under development in consultation with the provincial government and the Joint Committee on Accreditation in Ottawa. A study will be undertaken to determine the scope of the program required and the feasibility of proceeding in the present period of severe financial restraint.
- A rule of professional conduct is being developed which will elaborate on the present Rule 13, Commentary 5 which makes the violation of the Ontario Human Rights Code a disciplinary matter.

Finance and Administration

Chair: Ken Howie, Q.C.

The financial statements for the Law Society's three funds are at pages 27 to 41 of this Annual Report and are accompanied by the auditors' unqualified opinion. The General Fund includes all professional and administrative operations of the Law Society, including the Great Library and Legal Education, which consists of the Bar Admission Course and Continuing Legal Education. Separate funds are maintained for the Lawyers Fund for Client Compensation and the Consolidated Errors and Omissions Insurance Fund.

General Fund

A Priorities and Planning Committee established in 1992 to conduct exhaustive reviews of all departmental budgets, continues its work under the direction of Thomas Bastedo, Chair. As a result of reviews completed in 1992, management and staff embarked upon a program of expenditure restraints which resulted in year over year savings of approximately \$987,000. This, together with increased revenues of

\$393,000 and lower interest costs on borrowed funds, resulted in a net surplus from operations of \$1,547,000.

The Society had budgeted for a surplus of \$600,000 for the purpose of applying these funds toward the repayment of long-term debt obligations acquired in the financing of the building addition at Osgoode Hall. Convocation has authorized that an additional \$500,000 from the current surplus be allocated to the repayment of the building loan, leaving a surplus of about \$447,000 to be carried into the 1994 fiscal year.

In addition to savings realized in the current fiscal year, the Priorities and Planning Committee was able to reduce costs in a number of program areas, resulting in an \$18 reduction in the annual fee for 1993-94.

The annual fees for 1993-94 with comparative figures for the previous four years are noted in the table below.

	% incr (decr)	1993-94	1992-93	1991-92	1990-91	1989-90
Annual Fee	(2.6)	\$758	\$778	\$781	\$678	\$601
County Libraries	2.5	81	79	68	62	58
Lawyers' Fund For Client Comp.	—	1	1	1	26	52
Legal Aid Admin. Expenses	—	292	292	240	185	\$183
TOTAL	(1.6)	\$1,132	\$1,150	\$1,090	\$951	\$894

It should be noted that while expenditures declined overall in 1993, costs rose in a number of areas, primarily in the complaints, discipline and audit departments. The Society was able to offset those increased costs with savings in other areas.

A major expense component in the General Fund is the bar admission course which operated on a break-even basis during the last fiscal year. The course drew on \$2,302,000 in grants from the Law Foundation of Ontario, \$55,000 less than the amount it was allocated. Due to declining Law Foundation revenues however, the Society will face increasing pressure in the coming years to find alternative sources of bar admission course funding. Course enrolment has increased over the past few years and is now at 1,250 students. Tuition fees have been increased by seven per cent.

The Society's continuing legal education program operated at a deficit due to reduced enrolments but has been restructured and expects to operate at a break-even position for 1993-94.

During the year, the Society was able to "lock in" at 8.3 per cent a portion of its long-term debt acquired in 1991 for the purpose of funding the building addition. This will allow for the orderly repayment of the debt over an extended period of time, and will allow the Society the option to extend the repayment terms to provide a buffer against any significant increase in the annual fees over that period.

Lawyers Fund for Client Compensation

The Compensation Fund Levy, set at \$1 for the past two years, will remain at \$1 for the next year as well. As can be seen from the statement of revenues and expenses, the portfolio of investments in the Compensation Fund is generating significant interest so that the majority of grants can be paid without seriously depleting the fund.

Errors and Omissions Insurance Fund

Of considerably more concern is the continuing deterioration in the Errors and Omissions Insurance Fund. During the last three fiscal years, the volume and value of claims has been steadily increasing. The total gross value of outstanding claims against the fund has reached \$265,903,000.

After provisions for the following three components—reinsurance, members' individual deductibles, and forecasted investment return—the balance sheet indicates that net reserves of \$119,545,000 are required to meet these claims. It must be emphasized that each of the three components used to arrive at the final valuation of reserves is, by necessity, an estimate. Any adverse occurrence in any one of these factors may have a significant effect on the balance in the fund, which at the beginning of the fiscal year stood at a deficit of some \$18 million. Because of adverse development in claims for 1991, 1992 and the first half of 1993, that deficit has now grown to \$37.9 million.

French Language Services

Chair: Patricia Peters, Q.C.

The French Language Services Program is now in its fourth year and considerable progress has been made implementing a plan that meets the French language requirements of the profession and the public. The plan is reviewed and updated annually to ensure relevance and cost-effectiveness.

Communication channels have been much improved. A large percentage of designated bilingual positions have been filled, enabling many of the departments in the Law Society to respond effectively to French enquiries. On-going efforts are being made to improve consistency in this area, and some departments have achieved a high level of service in French. The Communications Department is one of them. It answers an average of 110 requests in French per month, most of them related to the Dial-A-Law Programme (Téléphone juridique) and the Lawyer Referral Service (Assistance-Avocats) which are gaining popularity with the francophone public. Information for members of the Society is also available in French.

Legal education is another area of growth. Generous funding by the Law Foundation of Ontario has made possible the French translation of nearly all bar admission course materials. Approximately 50 francophone/bilingual students are admitted to the profession each year after having completed their bar admission

course in French. Continuing legal education courses are also offered in cooperation with other organizations (CBAO, AJEFO, University of Ottawa).

Nineteen staff members completed the French language skills upgrading program this year. The program will continue for another year, but will focus more systematically on Law Society matters. The program is made possible by a grant from the Secretary of State.

Insurance

Chair: Colin Campbell, Q.C.

Claims Activity

The Errors & Omissions insurance fund continues to suffer from the adverse effects of the protracted recession and low interest rates. While the gross value of claims reported during the first five months of 1993 decreased slightly to \$13.5 million compared to \$14.9 million for the same period in 1992, the number of claims increased by 319 to 1,598. Financial statements show a deficit of \$37.9 million in 1993 compared to an \$18 million deficit for the previous year.

The Insurance Committee is working to ensure that future levies charged to members are adequate to cover this deficit. It is now necessary to acknowledge the effect that the current recession and low interest rates has had on the fund. In retrospect, forecasts used in arriving at the levies for the past two years are considered to have been overly optimistic.

Addressing the deficit will be a two-step process. Firstly, it will be necessary to increase the supplementary levy for the next four fiscal years to \$650 from the current \$450. Secondly, in the upcoming year the levy will be set according to more cautious projections of the volume and value of claims and will be based on significantly reduced interest income expectations.

Errors & Omissions Levy

A number of changes were introduced to the Errors & Omissions levy in 1993, namely:

- **Levy surcharges.** Effective January 1, 1993 levy surcharges were to be imposed only after a claim payment had been made or where there had been an unfavourable file closing—a departure from the previous practice of determining rating categories on the basis of both open claim files and unfavourable file closings.
- **Levy instalments.** To better match the levy setting process with developments in the frequency and severity of claims against members, the levy is now calculated and invoiced for two 6-month periods commencing January 1 and July 1 rather than for a full 12-month period.
- **Pro Bono Exemption.** Members exempt from the levy who perform pro bono services on behalf of non-profit organizations will qualify for a continued exemption from the levy. Claims against such members will be covered under

the mandatory insurance program. Exempt members wishing to perform pro bono services on behalf of non-profit organizations, and who wish to continue to qualify for an exemption are required to submit an application detailing the entity on whose behalf the member acts, the nature of the pro bono services, and the time frame for completion of the services.

Program Review Sub-committee

This sub-committee was created to consider and make specific recommendations on short and long-term loss prevention initiatives, and to review the entire mandatory professional liability insurance program including the policies governing the Errors & Omissions levy rating structure. Recommendations on these matters are expected in the fall of 1993.

Loss Prevention Initiative

In an effort to contain claim costs, an important loss prevention initiative was launched in June. A video has been distributed to all law firms which illustrates, through real-life scenarios, those factors which give rise to the majority of claims against members. The objective of the video and related print materials is to increase awareness among members of those areas in any practice which, if not properly structured, can and do lead to E&O claims.

Lawyers Fund for Client Compensation

Chair: Clayton Ruby

During fiscal 1993, the Law Society awarded the largest amount in grants to clients of dishonest lawyers since the Fund's inception in 1953. The awards, which are limited to \$100,000 per applicant, totalled \$3,327,000 and involved claims against 28 lawyers. The increase in grants is a reflection of the record dollar value of new claims received in the previous fiscal year.

On a more positive note, the value of new claims received dropped significantly in 1993 from the previous year. The Fund received 189 claims totalling \$12.6 million in 1993 compared to 354 claims totalling over \$33 million in 1992.

As at June 30, 1993, the balance in the Lawyers Fund for Client Compensation Fund stood at \$29,561,000. The outstanding claims still to be processed amounted to \$28.1 million (\$16.1 with limits applied) a decrease from \$46.7 million (\$20.3 with limits applied) as at June 30, 1992.

After payment of grants and expenses of \$4.7 million there was an encroachment on the capital of the Fund of approximately \$1.9 million. The levy will remain at \$1 per member for the next fiscal year.

Of the \$28.1 million in outstanding claims, 81 per cent are investment claims and 73 per cent of those are mortgage claims. In order to reduce the incidence of misappropriation, the Committee initiated changes to Regulation 708 under the *Law*

Society Act requiring lawyers to disclose to their mortgagee clients relevant information about the security they are receiving. The disclosure requirements are similar to those imposed upon mortgage brokers by the Province of Ontario.

Legal Aid

Chair: Frances Kiteley

The Legal Aid Committee's efforts continue to focus on meeting the challenges of providing certificate services at a time when funding sources for the Legal Aid Plan are under severe strain. The Plan's major contributors, namely, the Ontario Government and the Law Foundation of Ontario, are burdened by revenue shortages created by the recession and low interest rates.

In order to control costs and maximize efficiencies the Legal Aid Committee identified savings in a number of areas and proposed several new initiatives as follows:

- Graduated fee income deductions. Criminal lawyers billing the Legal Aid Plan over \$175,000 and civil lawyers whose billings exceed \$275,000 were subject to deductions of up to 60 per cent on billings after April 28, 1993.
- Criminal tariff reduction. A temporary five per cent reduction in the criminal tariff was instituted in November 1992 in addition to the existing five per cent mandatory statutory deduction. The additional deduction will apply until May 1994.
- Fee reductions in criminal matters. Fees paid to lawyers for a number of criminal proceedings have been reduced. eg. guilty pleas, pre-trial meetings, consent detention orders
- Criminal protocol. A number of measures were introduced in the criminal law area in Metro Toronto which will result in fewer certificates being issued and fewer charges proceeding to the trial stage. These include post charge screening, early and comprehensive crown disclosure and negotiation.
- Pilot projects. In order to explore methods to improve access to certain services, the Committee has been active in the design of pilot projects which will be launched in immigration and family law.

Immigration pilot: The Plan will establish an immigration staff office in Toronto to represent refugee claimants at hearings before the Refugee Division of the Immigration and Refugee Board. Consisting of six lawyers, six paralegals and three support staff, the pilot will run for a three year period and will serve approximately 1,150 clients annually at a cost of \$1.1 million.

Family pilots: It is proposed that two staff office models will be created: a limited service model offering assistance only with uncontested divorces and adoptions and a women's family law centre which will offer both legal and non-legal services such as advocacy, crisis counselling, interpreter services and law reform lobbying.

Legal Education

Chair: Paul Lamek, Q.C.

Bar Admission Course

The reformed bar admission course, offered in Ottawa, Toronto and London concluded its second complete cycle in December 1992 and 1,105 graduates were admitted to the Ontario legal profession at the call to the bar ceremonies in February 1993.

The bar admission course is facing increasing budget pressures due to the withdrawal of approximately \$1 million in Ontario government funding and the significant decline in the revenues of the Law Foundation, a major contributor to the course.

The Bar Admission Course Financial Issues Subcommittee, chaired by Paul Lamek, initiated an intensive review of the course in order to identify measures for reducing its operating costs. Members of the subcommittee and staff have worked together to meet cost reductions while maintaining the educational quality and objectives of the course which was restructured two years ago.

Articling

The Articling Subcommittee continues to oversee the implementation of articling reform, the focus of which is to enhance articling as an educational experience.

Unfortunately, the economic recession has had a negative impact on the availability of articling positions. In order to ensure that students fulfil this important component of the Law Society's professional education requirement, benchers are working with staff to generate new articling positions and to assist students who are having difficulties in finding placements. A letter and telephone campaign has been successful in locating articling placements for a number of students. The Articling Subcommittee is continuing to explore means of increasing the number of articling positions both in the short- and long-term.

Part-time articles

The Society has initiated a program to assist those students who are unable to undertake full-time articles due to either child-care responsibilities or disability. The program allows candidates to apply to the articling director for permission to complete their articling requirement on an extended part-time basis.

Sexual harassment

The Report of the Joint Subcommittee on Sexual Harassment, approved in April 1993, established a series of procedures to allow the Law Society to deal effectively with complaints of sexual harassment lodged by articling students against articling principals. The Report includes a provision designating the articling director as an advisor for the purpose of receiving and investigating sexual harassment complaints from articling students. The Report endeavours to balance the interests of the

complainants with the need to ensure that articling principals are deterred from such conduct.

Articling interview guidelines

The Law Society has published interim guidelines to assist both lawyers and students to avoid inappropriate questions during articling interviews. The guidelines were prepared in response to student complaints alleging that questions were being asked that appeared to contravene both the Ontario Human Rights Code and the Rules of Professional Conduct. A more expansive set of guidelines is under development.

Continuing Legal Education

The Law Society offers continuing legal education programs at its facilities in London, Ottawa and Toronto, and in several other locations throughout Ontario. The course offerings consist of a combination of live programs, video replays and hands-on computer training. Through co-operation with the County & District Law Associations, the Law Society is continuing to improve its program offerings outside of the major urban centres.

A total of 96 continuing legal education programs were offered in 1993 and were attended by over 5,800 registrants.

Mandatory CLE

The desirability of introducing a mandatory continuing legal education program in Ontario is currently under study. Rapid changes in the practice of law and the upward trend in errors and omissions claims have given rise to suggestions that mandatory continuing legal education should be a requirement for continued good standing in the Law Society.

Acknowledgements and Bar Admission Course Bursaries

The Law Society gratefully acknowledges donations from the following individuals and groups who have created bursaries in the bar admission course:

- The Alex Dymont Q.C. Bursary donated by the Dymont family in honour of the former Small Claims Court Judge who passed away in 1992.
- The Benjamin Luxenberg, Q.C., LSM, Bursary established in 1992 to recognize Mr. Luxenberg's distinguished career and dedicated service to the profession.
- The C. E. Woollcombe Q.C. Memorial Bursary established by the firm Day Wilson Campbell in memory of their partner who passed away in March of 1983.
- The Class of 1951 Bursary established by the Osgoode Hall Class of 1951.
- The Harold G. Fox Q.C. Education Fund Bursary established by the late Dr. Fox, eminent member of the Law Society, scholar, teacher, author and practitioner of international distinction in the area of patent and copyright law.

In addition to the Bursary, the Trustees of the Fox Fund provide scholarships to student members of the Law Society in the Bar Admission Course for pupillage in Barristers' Chambers in London, England.

- The Honourable Bertha E. Thompson Memorial Bursary established in 1992 by G. Bernard W. Harrison in memory of his wife's significant contributions to the profession.
- The Joseph Philip Chetner Memorial Bursary established by the firm of Torkin, Manes, Cohen & Arbus in memory of Mr. Chetner, a partner who passed away in November of 1988.
- The Lawyers' Club Bursary established in 1983 by the Lawyers' Club. Each year, the Trustees of the Lawyers' Club honour a distinguished member of the profession and award the bursary in the member's name. In 1993, The Honourable Mr. Justice Samuel G. M. Grange Bursary was awarded.
- The Maxwell A. Levy, Q.C. Memorial Bursary established in 1982 by his wife, Fanny, and his son, Robert.
- The Murray L. Keyfetz, Q.C. Memorial Bursary established in 1987 by his wife, Margaret, and his daughter, Lynda.
- The Terence Sheard, C.B.E., Q.C. Memorial Bursary established in 1989 by his wife, Gail.
- The Victor & Sileen St. Lewis Bursary established in 1993 by their daughter, Joanne, to assist African-Canadian students.

Legislation and Rules Committee

Chair: Maurice Cullity, Q.C.

Law Society Act, R.S.O. 1990, c. L.8

The following amendments to the *Law Society Act* have been made or are under consideration:

- Class proceedings. Sections of the Law Society Act concerning the Law Foundation of Ontario were amended, effective January 1, 1993, to provide for the establishment of the Class Proceedings Fund which offers financial assistance to parties initiating class proceedings.
- Membership suspensions. The text of a proposed amendment to the Act has been approved to permit Convocation to cancel the membership of a member whose rights and privileges have been suspended for non-payment of fees or levies where the member has failed to pay the outstanding fees or levies within twelve months of the date of suspension.
- Treasurer election. In accordance with a resolution adopted at the 1992 Annual Meeting, Convocation has resolved that no person should be eligible to be Treasurer who has not been elected as a bencher in the most recent Bencher Election. The Committee has drafted proposed amendments to the *Law Society Act* to give effect to this resolution.
- Regional bencher elections. In March, 1993, Convocation approved a scheme

for the regional election of benchers which will require an amendment to the *Law Society Act*. The Committee is drafting proposed amendments to the Act as well as the rules that will govern the scheme of regional elections.

- Incorporation of Law Practices. The amendments to the *Law Society Act*, which were enacted in 1990 to provide for the incorporation of law practices, have not yet been proclaimed by the Lieutenant Governor.

Libraries and Reporting

Chair: Daniel J. Murphy, Q.C.

Ontario Reports

The Society's Ontario Reports Database is the largest law report database on Quicklaw, containing both the full text of reasons for judgment and headnotes of decisions from 1931 to the present. Weekly updates make the OR Database the most current report series on Quicklaw.

Search Law

Search Law continues to provide access to the Ontario Reports Database and other databases, thereby ensuring that the benefits of electronic legal research are enjoyed by all lawyers in Ontario, whether in small firms in county towns or large firms in urban centres.

Last year, the Search Law service conducted 1,500 searches on behalf of lawyers, judges and articling students.

The Society's Libraries

The Great Library and the County Libraries continue to provide Ontario's lawyers and judges with a solid level of legal research assistance. The Great Library has introduced compact disc technology by purchasing several CD-Rom products from major U.S. publishers, and will be adding Canadian CD-Rom's as they become available.

The County Libraries have greatly benefitted from ongoing grant support from the Law Foundation of Ontario and a modest increase in the county library levy (now set at \$81 for lawyers in private practice) within the Society's annual fee. The Society's libraries will continue to meet the challenge of maintaining services in a period of financial restraint.

Professional Conduct

Chair: Marc J. Somerville, Q.C.

A wholesale revision of the Rules of Professional Conduct has been initiated and is expected to take approximately two years to complete. The task has been assigned to a special committee chaired by Marc Somerville. It is anticipated that the exercise will be greatly aided by the revisions of the Rules of Professional Conduct

undertaken by the Law Societies of Alberta and British Columbia. Separate working groups have been created to review each of the existing 27 rules. Two of the rules have been under review for the last two years, namely: Conflict of Interest (Rule 5) and Reporting Wrongdoing to the Law Society (part of Rule 13).

Members of Professional Conduct Committee have been working with the Federation of Law Societies' Committee on the conflict of interest issues raised by the Supreme Court of Canada in the *Martin v. Gray* case (conflicts created by the migrating lawyer). It is hoped that there will be agreement on a rule of conduct addressing the issue. Several law societies have agreed that the work of the Federation's Committee be expanded to include other types of conflicts as well.

The Ontario branch of the Canadian Corporate Counsel Association has been developing a set of guidelines that will be of assistance to corporate counsel, particularly with respect to ethical dilemmas. When the guidelines are completed they will be submitted to the Law Society for consideration and approval.

Professional Standards

Chair: Colin McKinnon, Q.C.

In order to permit the Professional Standards Committee to better fulfil its mandate, Convocation recently approved, in principle, changes to the *Law Society Act* which would:

- make practice reviews mandatory
- allow for random practice reviews
- permit the making of orders by Review Panels to address a member's competency problems
- permit non-Benchers to sit on Review Panels.

Amendments to the Act have been drafted, but have not yet been presented to the Ontario government.

The Committee also monitors the LINK program which provides counselling and referral services to members suffering from stress, substance abuse and other problems. The initial cost of the LINK program (four hours) is paid for by the Law Society, after which members are responsible for any additional fees or expenses.

Practice Advisory Service

The Practice Advisory Service is overseen by the Professional Standards Committee and offers confidential assistance to members and their staff with respect to almost any problem that can arise in the practice of law, subject to the constraint that legal advice cannot be provided.

The Service has three full-time lawyers and a half-time systems consultant who can generally respond to a member's enquiry within a few working hours.

The number of enquiries has increased considerably, particularly in the second half of 1993. The Service responded to over 6,000 enquiries during that period

approximately two-thirds of which originated from lawyers in the Metro Toronto area and one-third from elsewhere in Ontario. The majority of calls related to ethical issues and the Rules of Professional Conduct. Inquiries are fairly well distributed among recent graduates and more seasoned practitioners. Twenty-two percent of the lawyers who contacted Practice Advisory were called in the 1990s and 13 per cent were called prior to 1974.

The Practice Advisory and Standards Department continue to offer start-up workshops for those lawyers considering opening up their own practice. These have been expanded to a full-day session and can accommodate up to 40 participants. While the workshops were originally targeted to newly-called lawyers, a number of more senior members are now taking part.

Research and Planning

Chair: Thomas Bastedo

Strategic Planning Conference

The Committee organized a Strategic Planning Conference for benchers on September 25-26, 1992, under the title "Professionalism in the 90's: Responding to Social and Ethical Change". The conference focused on the changes in professional values and standards which have occurred over the past 25 years. Issuing from the conference were a series of recommendations and conclusions aimed at identifying the role of the Law Society in forging a new concept of professionalism that is responsive to the contemporary realities of legal practice.

Dispute Resolution

The Dispute Resolution Subcommittee concluded 18 months of work with the presentation of a major report, "Alternatives," which outlined the Society's role in promoting alternatives to litigation. Adopted by Convocation in February 1993, *Alternatives* contained recommendations for action by the Law Society in the areas of education, professional conduct and public information. A committee has been established to oversee implementation of the report.

Non-Bencher Representation on Law Society Committees

In May 1993, Convocation adopted the report of the subcommittee that reviewed the issue of non-bencher representation on Law Society committees. The report recommended that 12 non-benchers be appointed to committees for two-year terms beginning September 1993. The subcommittee also proposed selection and appointment procedures.

Statement on the Role of the Law Society

A subcommittee was established in the fall of 1992 to draft a statement on the role of the Law Society. Once adopted, the statement will serve as a standard against which all activities of the Law Society, and all proposals for new activities, can be

evaluated to determine whether they are consistent with the overall mandate and priorities of the governing body. Information has been received from law societies in other jurisdictions.

Specialist Certification Board

Chair: Roger Yachetti, Q.C.

The Specialist Certification Board currently certifies specialists in the areas of civil litigation, criminal litigation, the combined specialty of civil and criminal litigation, family law, immigration law, intellectual property law (patent/trademark/copyright), labour law and workers' compensation law.

As at June 1993, there were a total of 628 specialists in Ontario certified in the following areas of law:

Civil	399
Criminal	124
Combined civil & criminal	39
Family	46
Immigration	9
Intellectual property	11

There are three active sub-committees of the Specialist Certification Board:

- **Education Sub-Committee:**

The Education Sub-Committee is reviewing a 1992 report which recommended that a specialist certification preparation program be developed for each specialty to consist of courses which would assist lawyers to prepare for certification and examinations to test knowledge, skill and proficiency. To qualify for specialist certification, lawyers would be required to:

- successfully complete courses and examinations
- demonstrate requisite experience and concentration in the field of specialty
- demonstrate compliance with standards of professional responsibility

- **Specialty Areas Sub-Committee:**

Established in March 1993, the sub-committee was mandated to:

- prepare criteria for the development of new specialty areas
- review sub-specialties of civil litigation and consider whether the public would be better served by identifying civil litigation sub-specialties
- consider recommendations of individual lawyers, specialty groups within the bar and members of the public in support of the identification of lawyer specialists in practice areas for which no specialist certification program has been established
- consider whether there ought to be a generalist specialty.

- **Legal Aid/Pro Bono Sub-Committee:**

The Legal Aid/Pro Bono Sub-Committee was established in May 1993 to prepare a definition of pro bono work and to consider whether, as a community service,

certified specialists should be required to provide a certain number of hours of pro bono and legal aid work annually.

Unauthorized Practice

Chair: Dennis O'Connor, Q.C.

The Unauthorized Practice Department of the Law Society of Upper Canada continues to actively investigate and prosecute instances of the unauthorized practice of law. Fifty-six new matters were investigated, five charges were laid and five convictions were obtained. Two prior convictions were appealed during the year.

The Unauthorized Practice Committee established the following priorities in 1993:

- the careful selection of matters for prosecution from among those investigated
- voluntary resolution where possible
- prosecution of cases only where serious damage was perceived to have been suffered by victim(s) due to breaches of s.50 of the *Law Society Act*.

The Unauthorized Practice Committee completed a draft revision of Rule 19 concerning lawyers and their interaction with paralegals which has been submitted to the special committee reviewing the Rules of Professional Conduct.

Women in the Legal Profession

Chair: Susan E. Elliott

Review of the Model Workplace Policy on Sexual Harassment

In February 1992, a recommended personnel policy regarding employment-related sexual harassment was distributed to the managing partners of all law firms in Ontario and has also been made widely available on request. Last year, the Women in the Legal Profession Committee initiated a review of the policy in light of experience. A questionnaire was sent to managing partners of law firms in order to determine whether sexual harassment policies have been widely implemented in law firms and whether the Law Society model policy has proved useful to the profession. A preliminary report has been received and a final report will be prepared for the future.

The preliminary findings from the questionnaire indicate that future initiatives to be considered by the committee might include the formulation of sexual harassment materials for small law firms and further model policies on other issues.

Transitions Report

The Women in the Legal Profession Committee continues to explore ways that the recommendations and aims of the Transitions Report can be implemented. Transi-

tions surveyed over 1,600 members of the profession called to the bar between 1975 and 1990. A wide range of topics including professional and quality of life issues were canvassed in the survey. The committee has been the catalyst for the formation of a gender issues co-ordinating committee, which will bring together the energy and talents of many groups and individuals with an interest in gender issues. In this way, the recommendations that issued from Transitions will be implemented with the input of members of the profession.

Financial Statements

Auditors' Report

To the Members of The Law Society of Upper Canada

We have audited the balance sheet of **The Law Society of Upper Canada** as at June 30, 1993 and the General Fund statements of expenses and revenue, members' equity and changes in financial position and the Consolidated Errors and Omissions Insurance Fund and Lawyers Fund for Client Compensation statements of expenses and revenue and balance of fund for the year then ended. These financial statements are the responsibility of the Society's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In our opinion, these financial statements present fairly, in all material respects, the financial position of the Society as at June 30, 1993 and the results of its operations and the changes in its financial position for the year then ended in accordance with generally accepted accounting principles.



Toronto, Canada,
September 3, 1993.

Chartered Accountants

GENERAL FUND
STATEMENT OF EXPENSES AND REVENUE
[in thousands of dollars]

Year ended June 30	1993 \$	1992 \$
EXPENSES		
General		
Legal Aid Plan share of assessable administrative costs	5,692	5,965
Libraries and reporting	2,488	2,444
County libraries	2,593	2,439
Secretariat	2,165	2,346
Finance and administration	1,579	1,896
Discipline	788	814
Complaints	1,751	1,557
Facilities	2,343	2,496
Audit	2,016	1,785
Communications	1,449	1,408
Unauthorized practice	211	247
Professional conduct	165	165
Heritage	171	264
Admissions/member records	436	470
French language services	127	128
Certification	131	150
Practice advisory	417	229
Professional standards	266	348
Other expenses [note 13]	783	808
Interest	579	628
Total general expenses	26,150	26,587
Bar Admission Course [note 2]	5,439	5,611
Continuing legal education [note 2]	1,423	1,801
Total expenses	33,012	33,999
REVENUE		
General		
Annual fees - General Fund	16,822	16,197
Legal aid levy and interest - 1992/93 [note 4]	5,692	5,150
- prior year surplus	—	815
County library - levy [note 4]	1,560	1,410
- The Law Foundation of Ontario grants	929	929
Libraries and reporting revenues	996	1,024
Investment income	224	366
Certification	30	27
Other revenues [note 13]	1,527	1,564
Total general revenue	27,780	27,482
Bar Admission Course		
Tuition and book fees	3,137	3,187
Grants - The Law Foundation of Ontario	2,302	2,030
Total Bar Admission Course [note 2]	5,439	5,217
Continuing legal education [note 2]	1,340	1,467
Total revenue	34,559	34,166
Excess of revenue over expenses for the year [note 11]	1,547	167

See accompanying notes

GENERAL FUND
STATEMENT OF MEMBERS' EQUITY
[in thousands of dollars]

	1993	1992
Year ended June 30	\$	\$
Balance, beginning of year	9,546	9,379
Excess of revenue over expenses for the year	1,547	167
Balance, end of year	11,093	9,546

See accompanying notes

CONSOLIDATED ERRORS AND OMISSIONS INSURANCE FUND
STATEMENT OF EXPENSES AND REVENUE AND
BALANCE OF FUND
[in thousands of dollars]

Year ended June 30	1993 \$	1992 \$
EXPENSES		
Provision for claims, defense and related costs	71,039	48,259
Insurance premium	5,200	7,256
Salaries	2,002	1,673
Administration [note 5]	1,179	1,474
Loss prevention program	143	—
Brokerage fees	125	125
Rent	125	297
Practice advisory services	—	231
Total expenses	79,813	59,315
REVENUE		
Members' levies [note 14]	52,259	34,376
Investment income	7,642	8,328
Total revenue	59,901	42,704
Excess of expenses over revenue for the year	(19,912)	(16,611)
Balance of fund, beginning of year	(18,017)	(1,406)
Balance of fund held for future claims and expenses, end of year	(37,929)	(18,017)

See accompanying notes

LAWYERS' FUND FOR CLIENT COMPENSATION
STATEMENT OF EXPENSES AND REVENUE AND
BALANCE OF FUND
[in thousands of dollars]

	1993	1992
Year ended June 30	\$	\$
EXPENSES		
Grants paid, less recoveries	3,327	2,968
Counsel fees, referee fees and administrative costs	1,049	706
Salaries and benefits	253	241
Reports and sundries	29	54
Total expenses	4,658	3,969
REVENUE		
Investment income	2,752	3,031
Annual levy	28	43
Total revenue	2,780	3,074
Deficiency of revenue over expenses for the year	(1,878)	(895)
Balance of fund, beginning of year	31,439	32,334
Balance of fund, end of year	29,561	31,439

See accompanying notes

BALANCE SHEET

[in thousands of dollars]

As at June 30	1993 \$	1992 \$
ASSETS		
General Fund		
Current		
Cash and short-term investments, at lower of cost and market value	3,833	1,535
Accounts receivable	3,960	2,993
Interfund accounts receivable	1,638	291
Inventory	152	192
Prepaid expenses and deferred charges	47	100
Total current assets	9,630	5,111
Fixed assets		
Land, buildings and improvements [notes 9 and 10]	25,995	25,788
Furniture and equipment	4,569	4,414
	30,564	30,202
Less accumulated depreciation and amortization	10,692	9,679
Net fixed assets	19,872	20,523
Total assets - General Fund	29,502	25,634
Consolidated Errors and Omissions Insurance Fund [note 5]		
Cash and short-term investments, at lower of cost and market value	18,471	25,951
Deductible portion of claims paid, due from members	2,326	2,716
Interest and other receivables	4,502	4,069
Premium receivable [note 14]	7,333	—
Portfolio investments, at amortized cost [market value - \$66,478; 1992 - \$66,572]	62,745	62,715
Fixed assets	712	—
Other assets	1,996	483
Total assets - Consolidated Errors and Omissions Insurance Fund	98,085	95,934
Lawyers' Fund for Client Compensation [note 6]		
Cash and short-term investments, at lower of cost and market value	5,952	8,865
Interest and other receivables	672	637
Portfolio investments, at amortized cost [market value - \$24,444; 1992 - \$22,860]	23,027	22,276
Fixed assets [net]	3	7
Total assets - Lawyers' Fund for Client Compensation	29,654	31,785
Total assets administered	157,241	153,353

See accompanying notes

	1993 \$	1992 \$
LIABILITIES AND MEMBERS' EQUITY AND FUND BALANCES		
General Fund		
Current		
Bank loan and overdrafts [note 11]	4,856	12,797
Accounts payable and accrued liabilities	2,786	2,653
Goods and Services taxes payable	3,832	—
Deferred revenue [note 4]	1,435	638
Total current liabilities	12,909	16,088
Non-current liabilities		
Long-term debt [note 11]	5,500	—
Total liabilities	18,409	16,088
Total members' equity	11,093	9,546
Total liabilities and members' equity - General Fund	29,502	25,634
Consolidated Errors and Omissions Insurance Fund [note 5]		
Accounts payable and accrued liabilities	2,606	6,348
Interfund accounts payable	1,556	—
Unearned levy [note 14]	3,200	—
Prepaid levies and other deferred revenue	9,107	12,969
Reserve for unpaid claims	119,545	94,634
Balance of fund	(37,929)	(18,017)
Total liabilities and balance of fund - Consolidated Errors and Omissions Insurance Fund	98,085	95,934
Lawyers' Fund for Client Compensation [note 6]		
Accounts payable	11	55
Interfund accounts payable	82	291
Balance of fund	29,561	31,439
Total liabilities and balance of fund - Lawyers' Fund for Client Compensation	29,654	31,785
Total liabilities and members' equity and fund balances	157,241	153,353

On behalf of the Convocation:


Treasurer


Chair of Finance Committee

GENERAL FUND
STATEMENT OF CHANGES IN FINANCIAL POSITION
[in thousands of dollars]

Year ended June 30	1993 \$	1992 \$
OPERATING ACTIVITIES		
Excess of revenue over expenses for the year	1,547	167
Item not affecting cash		
Depreciation and amortization	1,013	1,046
Other operating sources (uses)		
Accounts receivable	(2,314)	(1,437)
Inventory	40	32
Prepaid expenses and deferred charges	53	188
Deposits held	—	(93)
Accounts payable and accrued liabilities	133	(942)
Goods and Services taxes payable	3,832	—
Net deferred revenue and expenses	797	(1,262)
Cash provided by (used in) operating activities	5,101	(2,301)
INVESTING ACTIVITIES		
Fixed asset additions	(362)	(2,948)
Cash used in investing activities	(362)	(2,948)
FINANCING ACTIVITIES		
Long-term debt	5,500	—
Mortgage discharge	—	(1,148)
Mortgage repayments	—	(34)
Cash provided by (used in) financing activities	5,500	(1,182)
Net change in cash and short-term investments	10,239	(6,431)
Cash position, beginning of year	(11,262)	(4,831)
Cash position, end of year	(1,023)	(11,262)
Cash position represented by		
Cash and short-term investments	3,833	1,535
Bank loan and overdrafts	(4,856)	(12,797)
	(1,023)	(11,262)

See accompanying notes

CONSOLIDATED ERRORS AND OMISSIONS INSURANCE FUND
STATEMENT OF CHANGES IN FINANCIAL POSITION
[in thousands of dollars]

Year ended June 30	1993 \$	1992 \$
OPERATING ACTIVITIES		
Excess of expenses over revenue	(19,912)	(16,611)
Items not affecting cash		
Provision for unpaid claims	71,039	48,259
Depreciation expense	38	5
Other operating sources (uses)		
Premium receivable	(7,333)	—
Accounts receivable	(43)	(1,996)
Other assets	(1,508)	(442)
Accounts payable and accrued liabilities	(2,186)	3,341
Unearned levy	3,200	—
Net deferred items	(3,862)	4,291
Payment of claims, defense and adjustor's fees	(46,128)	(35,552)
Cash provided by (used in) operating activities	(6,695)	1,295
INVESTING ACTIVITIES		
Fixed asset additions	(755)	—
Cash used in investing activities	(755)	—
FINANCING ACTIVITIES		
Net purchase/maturity long-term investments	(30)	(6,183)
Cash used in financing activities	(30)	(6,183)
Net change in cash and short-term investments	(7,480)	(4,888)
Cash position, beginning of year	25,951	30,839
Cash position, end of year	18,471	25,951
Cash position represented by		
Cash and short-term investments	18,471	25,951

See accompanying notes

NOTES TO FINANCIAL STATEMENTS

June 30, 1993

1. Significant Accounting Policies

The Law Society of Upper Canada [the "Society"] uses fund accounting, whereby the General Fund is used to account for the Society's various operations, the Lawyers Fund for Client Compensation for its compensation grants, and the Consolidated Errors and Omissions Insurance Fund for insurance claims [partly self-insured] and for administrative costs and adjusters' fees. The Consolidated Errors and Omissions Insurance Fund includes a wholly-owned subsidiary, the Lawyers' Professional Indemnity Company.

Short-term investments are stated at the lower of cost and market value.

Portfolio investments held for the Lawyers' Fund for Client Compensation and the Consolidated Errors and Omissions Insurance Fund are recorded at cost, net of amortization of premiums and discounts. Premiums and discounts from the par value are amortized over the term to maturity.

Inventory is valued at the lower of cost and net realizable value.

Land, buildings, furnishings and major alterations are presented at cost net of accumulated depreciation and amortization and grants. Depreciation and amortization are charged to expense on a straight-line basis over the estimated useful lives of the assets as follows:

Buildings	30 years
Building and leasehold improvements	10 years
Furniture and office equipment	3 to 5 years

Depreciation on major additions commences upon the asset being placed in service.

Minor capital expenditures, including the purchase of books for the Great Library, are expensed in the year of acquisition.

The reserve for unpaid claims includes estimates for outstanding case reserves [including adjuster, legal and other related fees] and a supplemental amount for adverse claim development. It is presented net of estimated member deductibles and insurance recoveries, and anticipated investment income. An independent actuary is periodically engaged to perform an actuarial study using historical experience.

Administrative expenses include only those salaries and other expenses not allocated directly to specific activities.

Expenses are shown applied to the respective committees net of intercommittee and interfund revenues.

Grants from the Lawyers Fund for Client Compensation are recognized when the amount is determined.

The work of the Society is dependent on the voluntary services of the benchers, lay benchers, and other members of the profession. These services are received gratuitously, therefore, no value has been included in these financial statements.

The Society is empowered to administer the Legal Aid Plan and to maintain the Legal Aid Fund in accordance with the Legal Aid Act. The Society reports annually to the Attorney General of Ontario on the accounts and financial transactions of the Legal Aid Fund. The financial statements of the Legal Aid Fund are subject to audit by the Provincial Auditor, and are not included in these financial statements. The activities of the Advocates' Society Institute, a related organization, are not incorporated into these financial statements.

2. Legal Education

Bar Admission Course Grants

The Society received a grant from The Law Foundation of Ontario [the "Law Foundation"] for the Bar Admission Course to cover the operating deficit of \$2,093,000.

	Authorized \$	Utilized [000's] \$
1992/1993 operating deficit up to a maximum of	2,143	2,093
French language translation of courses	209	209
		2,302
Less amount received during the year		1,059
Amount receivable at June 30, 1993		1,243

The unutilized portion of the grant is not available for carry forward to offset future years expenditures.

Legal education operating results

The results of operations of the Society's legal education programs are as follows:

	Bar Admission Course \$	Continuing legal education [000's] \$
Revenue - tuition and book fees	3,137	1,340
- Law Foundation grants	2,093	—
Expenses	(5,230)	1,423
	—	(83)

3. Law Foundation—General Grants

County and district library grant

The Society obtained a grant of \$929,000 from the Law Foundation on behalf of county and district libraries.

Other grants

A further \$120,000 was received from the Law Foundation to support Dial-a-Law.

4. Deferred Revenue

Deferred revenue consists of the following:

	Balance June 30/92 \$	Received \$	Utilized \$	Balance June 30/93 \$
			[000's]	
Legal aid	125	6,446	5,692	879
Education - employment placement	57	—	16	41
Articling matching programme	16	37	34	19
Heritage	155	—	41	114
Research and Planning	16	—	8	8
Articling Reform	—	19	6	13
Library:				
Fees	120	1,706	1,559	267
Law Foundation of Ontario grants	149	929	984	94
	638	9,137	8,340	1,435

Annual fees for 1993 included an amount of \$292 [1992 - \$240] per member as the Society's contribution to the administration of the Legal Aid Plan. The designated legal aid deferred revenue represents the difference between the accumulated funds collected from members and the statutory contributions to the Legal Aid Plan through to its fiscal year ended March 31, 1993. The library fees revenue represents the difference between the library fees collected from members and the portion distributed to the County Libraries.

5. Consolidated Errors and Omissions Insurance Fund

The Society's current errors and omissions insurance program insures members against claims for errors discovered from the calendar year 1977 onwards, with claims being covered for 1983 to present on the following basis:

	1989 through 1993 \$	1987 through 1988 \$	1983 through 1986 \$
		[000's]	
Borne by			
Consolidated Errors and			
Omissions Insurance Fund,			
including members'			
deductible first	250	150	100
Insurer next	750	450	400
Total coverage per occurrence	1,000	600	500

A separate fund is established each year to provide for claims reported to the Society during that year. The maximum fund loss experience for any year, up to and including 1989, is limited to a stop loss agreement with the insurer. There is no stop loss agreement with the insurer for the fund years from July 1, 1990 to December 31, 1991. The fund year commencing January 1, 1992, in addition to the \$250,000 per occurrence, the Society is liable for an aggregate of \$2,500,000 of losses incurred in excess of \$250,000 plus a further 10% of all losses above \$250,000 once the initial \$2,500,000 limit has been reached. The fund year commencing January 1, 1993 in addition to the \$250,000 per occurrence the Society is liable for an aggregate of \$4,000,000 of losses incurred in excess of \$250,000 plus a further 10% of all losses above \$250,000 once the initial \$4,000,000 limit has been reached.

The Errors and Omissions levies are determined annually. The amounts are determined based on historical experience and are adjusted for any adverse claims experience.

An analysis of the reserve for unpaid claims is as follows:

	1993 \$	1992 [000's] \$
Gross ultimate liability	265,903	224,582
Estimated recoveries from insurers	(57,251)	(48,655)
Estimated member deductibles	(38,535)	(31,039)
	170,117	144,888
Anticipated investment income, at a rate of 8%	(50,572)	(50,254)
Net reserve	119,545	94,634

The change in reserves set aside to meet unpaid claims is as follows:

	1993	1992
	\$	[000's] \$
Reserve balance, beginning of year	94,634	81,926
Provision for unpaid claims	71,039	48,259
Investment income	(2,114)	(19,094)
Payments, net of investment income	(44,014)	(16,457)
Reserve balance, end of year	119,545	94,634

Members may obtain bank loans to enable them to repay their liability for the deductible portion of claims paid. The Society has guaranteed these loans. Loans outstanding at June 30, 1993 amount to \$934,000 [1992 - \$81,000].

Administration

The schedule below shows comparative figures for 1993 and 1992:

	1993	1992
	\$	[000's] \$
General Fund charges:		
Finance and administration charges	679	515
Building and grounds	50	50
Printing and stationery	34	46
Postage	50	91
Furniture and equipment	20	24
Provision for taxes, income and premium	91	409
Office supplies	24	29
Other	231	310
	1,179	1,474

6. Lawyers Fund for Client Compensation

Convocation may make grants from the Lawyers' Fund for Client Compensation in order to relieve or mitigate loss sustained by any person arising mainly from dishonesty on the part of a member of the Society.

Annual levies for this fund vary from year to year to reflect the anticipated grants and the balance in the fund. At the year end, the total of outstanding claim applications was approximately \$28,188,000 [1992 - \$46,688,000]. Grants are made within the discretionary limits approved by Convocation. Strict application of the applicable limits to existing claims indicate that the maximum grants under the program would aggregate \$16,133,000 [1992 - \$20,338,000].

7. Endowment Funds

The Society administers endowment funds from earned income of which prizes, bursaries and gifts are made annually. At the year end, the endowment funds consisted of cash, investments and interest and other receivables of \$486,000 [1992 - \$472,000], of which \$237,000 was capital and the balance of \$250,000 [1992 - \$235,000] was unexpended income. Prizes, bursaries and gifts of \$17,000 [1992 - \$5,000] were paid during the year.

8. Pension Plan

The Society maintains a defined contribution pension plan for all eligible employees. The plan covers 244 employees of the Society and 294 employees at the offices of the Legal Aid Plan. The Society matches its employees' contributions to the plan.

The Society's annual pension expense [excluding Legal Aid] for 1993 amounted to \$487,127 [1992 - \$438,000].

9. Commitments

Operating leases

The Society is committed to monthly lease payments for property and computer facilities under leases having various terms up to August 2002. Aggregate monthly lease payments over the next five years and in total are as follows:

	1994	1995	1996	1997	1998 and thereafter	Total
	\$	\$	\$	\$	\$	\$
[000's]						
General Fund						
Bar Admission Course, London, Ontario	150	157	164	172	812	1,455
Computer equipment	169	169	169	141	—	648
	319	326	333	313	812	2,103
Consolidated Errors and Omissions Insurance Fund						
20 Queen St. W.	139	139	139	146	828	1,391
	458	465	472	459	1,640	3,494

10. Insured Value of Society Assets

The buildings and equipment of the Society are valued for insurance purposes at an estimated replacement cost of \$91,700,000. The books and records located at the Great Library are valued for insurance purposes at an estimated replacement cost of \$19,500,000. The books and records located at county and district libraries are valued for insurance purposes at an estimated replacement cost of \$20,625,000.

11. Bank Loan and Long-term Debt

During the 1991/92 fiscal year the Osgoode Hall renovations were completed for a total cost of \$17,024,000. This total cost was financed through \$12,500,000 of short-term debt with the balance being provided through reserves set aside in prior years. Repayment of this debt is expected over a period of ten years from funds generated from an excess of revenue over expenses in the general fund.

Within the terms of the bank debt was a facility to convert a portion of the short-term debt to long-term debt at any time. On October 1, 1992, the Society elected to convert \$6,000,000 of short-term debt to long-term debt to take advantage of low interest rates and guarantee, for five years, the interest expense on this portion of the debt.

At June 30, 1993 the long-term debt was \$5,500,000.

12. Contingent Liabilities

At June 30, 1993 there were three claims against the Society that have arisen as the result of alleged copyright infringement. At this point in time the amount of monetary relief claimed is not specified, and is not presently ascertainable. It is not possible at this time to make any realistic assessment of the likelihood that these actions will be brought to trial, nor of the possible extent of the exposure of the Society to liability for damages or other monetary relief.

13. Other Expenses and Revenues

Other expenses consist of the following:

	1993	1992
	\$ [000's]	\$
Catering	616	687
County and District liaison	66	61
Research and Planning	72	39
Women in the Legal Profession	9	12
Equity in the Legal Profession	17	5
Legislation and Rules	3	4
	783	808

Other revenues consist of the following:

	1993	1992
	\$ [000's]	\$
Catering	584	642
Call and admission fees	251	290
Other grants	120	211
Miscellaneous	572	421
	1,527	1,564

14. Errors and Omissions Insurance Fund Member Levies

The members' levies for the 1992/93 fiscal year includes a \$125 per member supplemental levy and partial recognition of the \$200 per member levy.

15. Comparative Financial Statements

The comparative financial statements have been reclassified from statements previously presented to conform to the presentation of the 1993 financial statements.

Law Society Medal Recipients

Five distinguished members of the bar were awarded the Law Society Medal in 1993. This honour, established by the benchers in 1984, is granted to members of the Society who perform their lawyering tasks with such diligence and effectiveness and so much to the benefit of the profession as to be deserving of special recognition.

Mary Cornish was called to the Bar in 1976. Ms. Cornish has litigated numerous ground-breaking cases in the labour and human rights areas throughout her career. Ms. Cornish has been recognized for her significant contribution in the non-legal community by the receipt of the YWCA Woman of Distinction Award, ("AGGIE") in 1988. She has also taken on many cases on a pro-bono, Legal Aid or reduced rate basis over the years, thereby providing access to justice for those to whom the system might otherwise have remained closed.

Jacob Ziegel was called to the Bar in 1972. Professor Ziegel has rendered outstanding service to both the academic and practising branches of the profession. Professor Ziegel is among the leading corporate commercial law scholars of the English speaking world. In addition, he has been instrumental in the evolution of personal property security legislation in Canada and has completed significant studies for the Ontario Law Reform Commission.

Willson McTavish, Q.C. was called to the Bar in 1964. Mr. McTavish was appointed Official Guardian for the Province of Ontario in 1984 and has made significant changes to the Office to ensure quality representation for children and the adequate supervision of Official Guardian agents. His outstanding service to the legal profession was recognized by his receipt of the CBAO Distinguished Service Award in 1989.

David Goldberg, Q.C. was called to the Bar in 1949. Mr. Goldberg has practised in the field of commercial corporate law in Hamilton for over 40 years and

during this time has been a valuable confidant to many of the Hamilton practitioners. He has also made a significant contribution to the community of Hamilton through his participation in numerous civic organizations.

J. J. Wardlaw, Q.C. was called to the Bar in 1956 and since that time has practised in Orangeville where he has earned the respect of the local bar for acting as a mentor, information source and teacher. Mr. Wardlaw is a recognized authority in the area of estates law and has, on several occasions, headed the estate planning section of the CBA(O). He is the author of numerous publications dealing with estate and real estate law and has been a frequent lecturer at continuing legal education programs and the bar admission course. Through his work with the local Rotary Club, the Dufferin County Law Association and other community services, Mr. Wardlaw has served his community well. Since 1979, he has served as a benchler of the Law Society and has chaired a number of senior committees including Discipline, Insurance and Legal Education.

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for Brenda

Convocation Membership

Changes in the Membership of Convocation

Allan Rock, Q.C. completed his term as Treasurer to June 25, 1993.

Paul Lamek, Q.C. elected Treasurer to replace Allan M. Rock, Q.C.

James M. Spence, Q.C. appointed to the Ontario Court (General Division) on February 1, 1993.

Benchers of The Law Society of Upper Canada (as at June 30, 1993)

Treasurer

Paul Lamek, Q.C.

Elected Benchers

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Denise E. Bellamy

Rino C. Bragagnolo, Q.C.

Lloyd Brennan, Q.C.

Colin L. Campbell, Q.C.

Robert J. Carter, Q.C.

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Maurice C. Cullity, Q.C.

Carole Curtis

E. Susan Elliott

Philip M. Epstein, Q.C.

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The Right Honourable Margaret Thatcher
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Nora Richardson
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The Hon. Allan F. Lawrence, P.C., Q.C.
Laura L. Legge, Q.C.
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The Hon. G. Arthur Martin, Q.C.
Brendan O'Brien, Q.C.
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Alan W. Pope, Q.C.
J.J. Robinette, Q.C.
Allan M. Rock, Q.C.
Arthur R.A. Scace, Q.C.
Ian G. Scott, Q.C.
Nathan Strauss, Q.C.
Stuart Thom, Q.C.

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